

June 17, 1999

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON**

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SECOND REPORT AND DECISION ON PROPOSED PRELIMINARY PLAT APPROVAL.

SUBJECT: Department of Development and Environmental Services File No. **L97P0005**

VANSELL PROPERTY
Preliminary Plat Application

Location: Lying on the east side of 233rd Ave. NE between NE 8th St. and NE 12th St.
(if constructed)

Applicant: CamWest Development
P.O. Box 676
Kirkland, WA 98083
(425) 637-9747

SUMMARY OF RECOMMENDATIONS:

Department's Preliminary:	Approve, subject to conditions
Department's Final:	Approve, subject to conditions
Examiner's First Report:	Approve, subject to conditions
Examiner's Second Report:	Approve, subject to modified conditions

PRELIMINARY MATTERS:

Application or petition submitted:	February 9, 1997
Complete application:	March 19, 1997

EXAMINER PROCEEDINGS:

Hearing Opened:	April 8, 1999
Hearing Closed:	April 8, 1999
Examiner's First Report:	April 23, 1999
Appealed by Applicant:	May 12, 1999
Deadline for Party Responses to Appeal:	June 1, 1999

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes
A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

ISSUES/TOPICS ADDRESSED:

- Intersection standards
- Pedestrian safety
- Recreation areas
- Road standards
- School walking conditions
- Student walking conditions
- Walkways
- Notice of Hearing

FIRST SUMMARY:

KCC 21A.14.190 addresses the use and improvement of required recreational space, but does not address *whether* such space should be required or a fee-in-lieu accepted in lieu thereof.

A walkway easement extending from a cul-de-sac terminus to a school playground will be required pursuant to RCW 58.17.110 (safe student walking conditions) and by KCRS Section 2.08 (connecting activity generators). This does not provide a basis to circumvent the recreational space allocation language contained in KCC 21A.14.190.

Failure to communicate among neighboring applicants provides no basis for disregarding the intersection alignment and spacing standards contained in the KCRS.

Pursuant to KCC 20.20.060.G.6, mailed notification to 500 foot radius property owners is supplementary to the posted and published notice requirements. Thus, it provides no basis for finding published notice inadequate.

Appropriate provision of safe walking conditions means that a student walkway should not be allowed to cross residential driveways and private yards by easement encumbrance.

Safe walking conditions for students who walk to school is a minimum threshold established by RCW 58.17.110. The expense of satisfying the minimum threshold need not be disproportionately borne by any particular development applicant. However, a project cannot go forward in the absence of the minimum threshold having been satisfied.

SECOND SUMMARY:

When a school district assumes the RCW 58.17.110 minimum standard for safe walking conditions, the applicant may be relieved of that burden.

FINDINGS, CONCLUSIONS & DECISION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:1. **General Information.**

Developer: Cam West Development, Inc.
P.O. Box 676
Kirkland, WA 98083
Phone: (425) 637-9747

Engineer: Dodds Engineers, Inc.
 4205 – 148th Ave. NE, Suite 200
 Bellevue, WA 98007
 Phone: (425) 885-7877

Location: Lying on the east side of 233rd Avenue NE between NE 8th Street and NE 12th Street (if constructed).

STR: 27-25-6

Zoning: R-6-P

Acreage: 9.80

Number of Lots: 46

Density: Approximately 4.91 dwelling units per acre

Lot Size: Ranges from approximately 4,350 to 20,755 square feet

Proposed Use: Detached single family residences

Sewage Disposal: Sammamish Plateau Water and Sewer District

Water Supply: Sammamish Plateau Water and Sewer District

Fire District: #90

School District: Lake Washington

Complete Application (Vesting) Date: February 19, 1997

2. Applicant's Proposal.

CamWest Development Inc. (the "applicant") proposes to subdivide a 9.8 acre parcel into 46 single family residential building lots. The proposed lot sizes range from 4,350 to 20,755, achieving a proposed density of approximately 4.91 dwelling units per acre. These numbers are consistent with the minimum and maximum density standards for R-6 zoning classification. The applicant's preliminary plat drawing is entered in this hearing record as Exhibit No. 6. A reduced copy is attached to the preliminary report to the Hearing Examiner dated April 8, 1999 presented by the Department of Development and Environmental Services ("DDES" or the "Department"), entered in this hearing record as Exhibit No. 2.

3. Issues.

The issues/topics/concerns to which the parties directed this review are these:

- A. Adequacy of notice to neighboring developer Cheswick Lane.
- B. Adequacy of applicant's proposed recreation space;
- C. Appropriate provision for safe walking conditions for students who walk to school;
- D. Intersection spacing or alignment.

4. Department Recommendation.

The Department recommends granting preliminary approval to the proposed plat of Vansell property; *subject* to the nineteen conditions of final plat approval contained on pages 12-16 of the Department's preliminary report to the Examiner (Exhibit No.2); *and subject further* to proposed new Condition No. 20 as stated in Exhibit No. 18. This additional proposed condition of final plat approval would require some redesign of the proposed development in order to obtain access from 233rd Avenue NE consistent with King County Road Standards (KCRS). This issue and the Department's recommendation are described further in Finding No.8, below.

5. Applicant Response.

The applicant *accepts* the Department's recommendation; *except* for the following issues:

- A. **Recreation Space.** The applicant opposes recommended Condition No.15 insofar as it precludes the option of paying a "fee-in-lieu" for recreational space. See Finding No.6, below.
- B. **Student Walking Conditions.** The applicant opposes recommended Condition No.10-K which requires that, "...the north side of NE 8th Street shall be improved with an eight-foot-wide gravel shoulder from Inglewood Junior High to 228th Avenue NE." See Finding No. 7, below.
- C. **Intersection Spacing.** The applicant opposes any substantial redesign which might result from new recommended Condition #20 which requires that *either* the proposed NE 9th Place access to 233rd Avenue NE be realigned to coincide with the Cheswick Lane access on the opposite side of 233rd Avenue NE, *or* that proposed NE 9th Place be terminated as a cul-de-sac street. See Finding No. 8, below.

6. Recreation Space.

Calculations based upon KCC 21A.14 show that the proposed development requires 17,940 square feet of on site recreational space. The applicant's preliminary plat drawing (Exhibit No. 6) provides only slightly less than 900 square feet of recreational open space (Tract H, abutting the proposed cul-de-sac turnaround bulb at the north end of proposed 234th Avenue NE).

The applicant argues that a walkway upon a ten-foot-wide trail easement will provide access to the northerly abutting Samantha Smith Elementary School, thereby providing appropriate access to recreation opportunity consistent with KCC 21A.14.185 and KCC 21A.14.190. Further, the applicant argues that a nearby junior high school (albeit across an arterial street) provides community wide recreational opportunity. Finally, the applicant observes, the King County Parks Department has submitted a letter which supports the applicant's position. That letter (Exhibit # 12) states, in part:

The Parks Department supports a reduced on-site recreation tract (12,940 square feet total), including the play area. Our support of a reduced on-site recreation tract is contingent on preserving and delineating the ten-foot trail link to the adjacent elementary as described above.

The applicant emphasizes KCC 21A.14.190 language which provides the following exception for providing "children play areas within the recreation space on site":

.....except when facilities are available to the public within one-quarter mile that are developed as parks or playgrounds and are accessible without crossing arterial streets.

The Department, on the other hand, emphasizes language contained in KCC 21A.14.185 which discusses the discretionary nature of King County acceptance of offered fee-in-lieu recreational space payments and provides the following criteria for allowing such payment:

.....the recreation space provided within a county park in the vicinity will be of greater benefit to the prospective residents of the development.

The applicant argues that the Department's interpretation of KCC 21A.14 is too restrictive.

7. Walkway Easement.

The Department recommends requiring a walkway extending northward from the proposed north 234th Avenue NE turnaround bulb to Samantha Smith Elementary School. The Department bases this recommended condition on RCW 58.17.110, which requires safe walking conditions for students who walk to school; and, on KCRS Section 2.08 which authorizes the Department to require an “off street walk” to connect a cul-de-sac at its terminus with (among other things) schools. Thus, this requirement is unrelated to the preceding recreational space discussion. That is, it would be required *regardless* of whether a fee-in-lieu for recreation space is accepted.

The applicant proposes to provide the walkway in an easement in two segments. First, a portion of the walkway easement would encumber a joint access driveway tract shared by two different property owners (proposed lot numbers 19 and 20). Second, the ten-foot-wide easement would encumber a privately owned residential lot (slot number 20). The recommended Condition 10-F, language at issue would require a ten-foot-wide tract to be owned either by the homeowners’ association or, if the Lake Washington School District will accept it, to be deeded to that entity. The condition further requires improvement of the tract with a five-foot-wide paved surface consistent with KCRS.

The Department suggests that the proposed easement is not appropriate because it creates pedestrian/student/driveway conflicts and because it installs a permanent liability problem for the two residential lot purchasers effected. The applicant did not strenuously argue against the Department’s position, but provided a preliminary lot line not in conformance to it. Presumably, the applicant is concerned about providing maximum livable space to property owners. The applicant’s proposal provides approximately 400 square feet¹ more private yard area than the Department’s separate tract recommendation.

8. Safe Walking Conditions.

a. Examiner’s First Report.

Recommended Condition No.10-K states:

In order to provide a safe walking facility for students from the subject plat to walk to school, the north side of NE 8th Street shall be improved with an eight-foot-wide gravel shoulder from Inglewood Junior High to 228th NE. These improvements may be waived in those locations where, on the north side of NE 8th Street, such a facility or its equivalent already exists.

The applicant opposes this recommendation as being unreasonably onerous, unfair to be imposed upon a single applicant and contrary to case law which requires mitigation measures to be *proportional* to the impact expected from the proposed development.

The Department responds by observing that other pending developments along the same NE 8th Street segment will have the same identical condition placed upon them. The Department agrees that, ideally, a “latecomers” recompense system should be in place, thereby assuring the proportionality that the applicant seeks. Unfortunately, King County has no such system. Therefore, the approach used by the Department in this case is routinely used by the Department in

1. Determined by multiplying the width of the tract or easement (10 feet) by the approximate length of the driveway segment of the proposed easement (40 feet).

many cases throughout the county. This alternative, perhaps *ad hoc*, system essentially leaves it to

the private developers to work out among themselves an equitable distribution of the required improvement costs. The applicant argues further that, regardless of whether RCW 58.17.110 establishes a *minimum threshold*, the proportionality rule of Washington State case law must prevail.

The walkway requirement for students who walk to school clearly advances a legitimate state interest articulated by the Washington State Legislature, codified as RCW 58.17.110 (2). The County, considering the case law presented by the applicant, should not attempt to require the applicant to take measures which generate costs disproportional to the impact created by the proposed development.

Condition No. 20, below, does not do that. Rather, it puts the developer on notice that a development which fails to meet the minimum health, safety and public interest standards of the State (RCW 58.17.110) cannot be granted final plat approval. The minimum threshold set by DDES in this case generously benefits the applicant because it is only a gravel walkway—less costly than a paved one and certainly less costly than the sidewalk, curb and gutter standard required by KCRS Section 3.02.A. Thus, even if the applicant provides the entire funding for the necessary walkway, the expense incurred by the applicant will be substantially less than would be incurred if full KCRS compliance were imposed.

b. Examiner's Second Report.

The safe walking conditions argument in this review concerns access to Inglewood Middle School. Although the applicant argues that the school is 1 ½ miles from the subject property, it actually scales a distance of 0.37 miles east of the Vansell property on NE 8th Street. Both Vansell and Inglewood are located on the same (north) side of the street. The hearing record shows that the walking corridor along that segment of NE 8th Street is a 3-foot wide, sometimes up to 4-foot wide, paved shoulder extension of the arterial roadway surface. Contrary to the applicant's appeal argument that "there is no evidence in the record of any unsafe walking conditions along NE 8th Street," the Department's engineers determined--based upon the narrow paved shoulder, arterial traffic conditions and King County Road Standards--that the walking conditions along the north side of NE 8th Street were unsafe. Further, the school district finds the walking condition so unsafe that the district will bus the students even though they are located less than a half-mile from Inglewood.

Contrary to the applicant's assertions, the Department of Development and Environmental Services indeed determined that the 46 lot Cam West project's resident children would need a safe walkway. The Department stated at page 10 of its report to the examiner (Exhibit 2):

With the development of the subject plat containing 46 lots and the development of Llama Landing containing 86 lots and two future development tracts, and Cheswick Lane containing 71 townhouse units, it appears there will be a *significantly increased number of students* who potentially could walk along the north side of NE 8th Street to reach Inglewood Junior High. ...

The Department further found that, at least in part, the safe walking conditions were impact related:

Such a condition [to provide safe walking conditions] would also be consistent with King County Road Standards Section 1.03A which requires that development projects improve "serving roads" when the projects will impact the safety of those roads. *By adding both pedestrian traffic and vehicular traffic to NE 8th Street, the subject plat [Vansell] will impact the safe functioning of NE 8th Street.*

Weighing against the above findings of fact, the Department indicates in the hearing record that school district officials have stated that *if the developers along NE 8th Street fail to make appropriate provision pursuant to the statutory subdivision mandate contained in RCW 58.17.110*, the school district will provide busing for the 1/3-mile distance. It is difficult to ascertain how many 8th graders will elect to wait for the bus rather than walk along the unsafe shoulder 1/3 mile.

In the absence of such information, the examiner must assume that the school district has accepted the RCW 58.17.110 minimum standard burden, thereby relieving the applicant of that burden.

9. Intersection Spacing.

Recommended Condition No.20, above, states:

As determined by DDES during final engineering review, the location of the intersection for NE 9th Place at 233rd Avenue NE shall be revised to align with the entrance for the Cheswick Lane project. As an alternative, the NE 9th Place intersection shall be eliminated and on the on site roadway within Vansell shall be designed as a permanent cul-de-sac street.

The Department bases this recommendation on KCRS section 2.10.B which establishes 100 feet as the minimum distance for the space between intersections accessing a street that is functionally classified as a “neighborhood collector”. In this case, 233rd Avenue NE is assigned the functional classification of neighborhood collector in order to establish a neighborhood circulation pattern serving Vansell, Cheswick Lane (abutting to the north), Llama Farm (abutting to the south) and other neighboring emerging developments. The applicant argues that it has already made significant adjustments to the proposed preliminary plat drawing in order to achieve alignment with the access street to Cheswick Lane on the opposite (west) side of 233rd Avenue NE. Any further changes to bring about intersection alignment should be accomplished by Cheswick Lane, the applicant suggests. Responding, Cheswick Lane argues that it has made bona fide efforts to achieve alignment that have been undermined by uncommunicated changes in the preliminary plat drawing, particularly regarding the location/alignment of access to 233rd Avenue NE. Further, argues Cheswick Lane, the Examiner has no authority in this proceeding over Cheswick Lane and must therefore limit his review to what is achievable by applicant CamWest and Vansell property.

This unfortunate situation appears to have resulted from incomplete communications among all three players, DDES, Cheswick Lane and CamWest (Vansell property).

10. Adequate Notice.

The Cheswick Lane developer contends that it received no timely notice of this public hearing review. The property was posted and newspaper notice published as required by KCC 20.20.060. Notices were mailed to all known property owners of record (as contained in King County Department of Assessments records). Apparently, CamWest has recently acquired the Cheswick Lane property and the Department of Assessments had no record of the new ownership at the time DDES requested the 500 foot radius mailing list. KCC 20.20.060 indicates that the mailed list is *supplementary* to the posted and published notices.

The requirements for radius ownership notification contained in KCC 20.20.060 and RCW 58.17.090 are similar. KCC 20.20.060 requires an additional 200-foot radius notification not required by the statute. Records retained by DDES indicate compliance with both.

11. Department Report Adopted

Except as noted above, the facts and analysis contained in the DDES Preliminary Report dated April 8, 1999 (Exhibit No. 2) are correct and are incorporated here by reference. A copy of the

Land Use Services Division report will be attached to those copies of the examiner's report which are submitted to the King County Council.

12. Conclusions Adopted.

Any portion of any of the following conclusions which may be construed as a fining is incorporated here by reference.

CONCLUSIONS:

1. Regarding safe walking conditions along NE 8th Street the applicant correctly argues that RCW 58.17.110 does not confer upon the county any authority to exact impact related improvements having costs that are disproportional to the impact created by the proposed development. That, however, is not the issue here. The issue is whether *appropriate provision* for safe walking condition exists. In the absence of such appropriate provision, the proposed development must be denied. Case law regarding development fee/exaction/mitigation proportionality to impacts has never addressed *minimum standards* requirements for public health and safety.

The facts contained in Findings 8.a. and 8.b. certainly justify requiring safe walking conditions for the students of Inglewood Middle School. In this unusual case, however, the school district has indicated to departmental staff that the District is willing to assume the developer's burden for making appropriate provision for safe walking conditions. When meeting a minimum standard, the issues of cause, impact and impact proportionality are not relevant. The only relevant question is: Is the minimum standard satisfied? In this case it is. The school district has assured the Department that the District will bus students past the unsafe walking conditions. For this reason, the RCW 58.17.110 minimum "safe walking conditions" standard must be deemed to be satisfied. Therefore, any condition that limits the ability of this proposed subdivision to move forward on that basis must be removed from conditions of final plat approval.

2. Regarding intersection spacing and alignment on 233rd Avenue NE, the neighboring Cheswick Lane developer is correct: the Examiner has no jurisdictional authority regarding Cheswick Lane design. It is unfortunate that the two neighboring developers (and perhaps DDES, as well) have not better communicated among themselves over the past eighteen months regarding this issue. Miscommunication, however, provides no basis for disregarding the KCRS.

Condition No. 20, below, assures KCRS compliance with intersection spacing/alignment standards while at the same time providing design flexibility. It has not been convincingly demonstrated that terminating proposed NE 9th Place as a cul-de-sac with turnaround bulb would place a hardship upon this applicant. Moving the NE 9th Place entrance northward approximately 175 feet (to the presently proposed Tract E location) apparently would satisfy the KCRS and would, in addition, provide the applicant the added marketing benefit of a cul-de-sac serving approximately thirteen lots (south of the new entry street). Viewed in this way, it is difficult to ascertain what all the debate is about.

3. Regarding allegations about adequacy of notice to neighboring property owners, the record contains no evidence of failure to comply with the public notice specifications contained in either RCW or KCC.
4. Regarding recreational space, DDES must prevail. KCC 21A.14.190—emphasized by the applicant—does not address the provision or allocation of recreation space or fees-in-lieu thereof.

Rather, KCC 21A.14.190 addresses the *design* of recreational space when it is required. It establishes criteria for when required recreation space must also contain children's play areas and/or play apparatus. It is not relevant to this review.

Rather, KCC 21A.14.185 controls the issue here: whether to allow payment of fees-in-lieu of recreation space allocation. The criteria is clear. The recreation space provided within a county park in the vicinity of the proposed development, which is deemed to be of greater benefit to the prospective residents of the development, may (it is discretionary) be used as a basis to permit fee-in-lieu payment. In this case, there is no such county park in the vicinity and the applicant's arguments must be rejected. The insistence on county-park proximity is not a "too restrictive" interpretation or "hairsplitting". It is what KCC 21A.14.185 actually says. The proximity of playgrounds may be used to make decisions about the *design* of required on site recreation (KCC 21A.14.190) but is wholly irrelevant regarding *whether* recreation space or fees-in-lieu thereof should be required (KCC 21A.14.185).

The Department of Parks recommendation provides useful reasoning to understand the importance of the KCRS Section 2.08 requirement for connections from cul-de-sac termini to "pedestrian traffic generators" and the RCW 58.17.110 admonition to assure safe walking conditions for students who walk to school. As noted above, however, the Department of Parks suggestion to reduce on-site recreation area fails to comport with KCC 21A.14.185.

5. If approved subject to the conditions recommended below, the proposed subdivision makes appropriate provision for the public health, safety and welfare; serves the public use and interest; and meets the requirements of RCW 58.17.110.
6. The conditions of approval recommended herein, including dedications and easements, will provide improvements which promote legitimate public purposes; are necessary to serve the subdivision and are proportional to its impacts; are required to make the proposed plat reasonably compatible with the environment; and will carry out applicable state laws and regulations and the laws, policies and objectives of King County.
7. Any portion of Finding numbers 1 through 10, which may be construed as a conclusion is incorporated here by this reference.

DECISION:

It is recommended that the subject subdivision, revised and received March 11, 1999, be granted preliminary approval subject to the following conditions of final approval:

1. Compliance with all platting provisions of Title 19 of the King County Code.
2. All persons having an ownership interest in the subject property shall sign on the face of the final plat a dedication which includes the language set forth in King County Council Motion No. 5952.
3. The plat shall comply with the base density and/or minimum density requirements of the R-6 zone classification. All lots shall meet the minimum dimensional requirements of the R-6 zone classification and shall be generally as shown on the face of the approved preliminary plat, except that minor revisions to the plat which do not result in substantial changes may be approved at the discretion of the Department of Development and Environmental Services.
4. The applicant must obtain final approval from the King County Health Department.

5. All construction and upgrading of public and private roads shall be done in accordance with the King County Road Standards established and adopted by Ordinance No. 11187.
6. The applicant must obtain the approval of the King County Fire Protection Engineer for the adequacy of the fire hydrant, water main, and fire flow standards of Chapter 17.08 of the King County Code.
7. Final plat approval shall require full compliance with the drainage provisions set forth in King County Code 9.04. Compliance may result in reducing the number and/or location of lots as shown on the preliminary approved plat. Preliminary review has identified the following conditions of approval which represent portions of the drainage requirements. All other applicable requirements in KCC 9.04 and the Surface Water Design Manual (SWDM) must also be satisfied during engineering and final review.
 - a. Drainage plans and analysis shall comply with the 1990 King County Surface Water Design Manual and applicable updates adopted by King County. DDES approval of the drainage and roadway plans is required prior to any construction.
 - b. Current standard plan notes and ESC notes, as established by DDES Engineering Review, shall be shown on the engineering plans.
 - c. The following note shall be shown on the final recorded plat:

" All building downspouts, footing drains, and drains from all impervious surfaces such as patios and driveways shall be connected to the permanent storm drain outlet as shown on the approved construction Drawing No.____ on file with DDES and/or the Department of Transportation. This plan shall be submitted with the application of any building permit. All connections of the drains must be constructed and approved prior to the final building inspection approval. For those lots that are designated for individual lot infiltration systems, the systems shall be constructed at the time of the building permit and shall comply with the plans on file."
 - d. The East Lake Sammamish Basin Plan identifies the subject property as lying within the Wetland No. 9 management area.. For this area, infiltration of storm water is required to minimize surface water runoff. As reflected in the applicant's downstream drainage analysis, the subject plat shall infiltrate runoff up through the 100-year, 24- hour storm event. The design of the infiltration facility and the soil testing procedures shall be in accordance with the requirements of the surface Water Design Manual. The runoff control facilities shall be located in a separate tract and dedicated to King County, unless portion of the drainage tract are used for required recreation space in accordance with KCC 21A.14.180.
8. All utilities within proposed rights-of-way must be included within a franchise approved by the King County Council, prior to final plat recording.
9. The applicant or subsequent owner shall comply with King County Code 14.75, Mitigation Payment System (MPS), by paying the required MPS fee and administration fee as determined by the applicable fee ordinance. The applicant has the option to either: (1) pay the MPS fee at final plat recording, or (2) pay the MPS fee at the time of building permit issuance. If the first option is chosen the fee paid shall be the fee in effect at the time of plat application and a note shall be placed on the face of the plat that reads, "All fees required by King County Code 14.75,

Mitigation Payment System (MPS), have been paid.” If the second option is chosen, the fee paid shall be the amount in effect as of the date of building permit application.

10. The proposed subdivision shall comply with the 1993 King County Road Standards (KCRS) including the following requirements:
 - a. During preliminary review, the applicant submitted a road variance application regarding a proposed reduction of right-of-way and road width along 233rd Avenue NE and NE 10th PLACE (File No. L99V0019). Unless otherwise determined by the road variance decision, 233rd Avenue NE shall be improved along the frontage of the property as an urban neighborhood collector street and NE 10th Place shall be improved as a full width urban neighborhood collector. As specified in KCRS 2.03, the roadway width for a neighborhood collector intersecting an arterial shall be 36-feet wide for the first 150 feet. (Note that if the road variance is not approved, additional right-of-way will be required to be dedicated consistent with the Road Standards, which will affect the adjoining proposed lots.)
 - b. NE 8th Street shall be improved along the frontage of the property as an urban minor arterial street, including 22 feet of pavement from centerline with curb, gutter and sidewalk. Twelve feet of right-of-way shall be dedicated to King County along the frontage of the property to provide 42 feet of right-of-way from centerline.
 - c. Two-hundred-thirty-fourth (234th) Avenue NE (both north and south of NE 10th Place) and NE 9th Place shall be improved as public roadways using the urban sub-access street design.
 - d. Tracts B,C, D and E shall be designed and improved as private access tracts. Improvements shall conform to KCRS 2.03 for urban minor access roads, which include 22 feet of paving. The minimum tract width shall be 26 feet, with a maximum length of 150 feet. The lots served by each tract shall have undivided ownership of the tract and be responsible for its maintenance. A note to this effect shall appear on the final plat and engineering plans. Note that Tract D shall serve Lots 34, 36, and 37, and may also serve Lot 35.
 - e. Tracts A and F shall be improved as private joint use driveways which serve a maximum of two lots. As specified in KCRS 3.01C, improvements shall include an 18 foot paved surface and a minimum tract width of 20 feet. Drainage control shall include a curb or thickened edge on one side. The lots served by each tract shall have undivided ownership of the tract and be responsible for its maintenance. A note to this effect shall appear on the final plat and engineering plans.
 - f. A pedestrian walkway shall be provided for access to the school located north of the site. The preliminary plat shall be revised to show a separate, 10-foot wide tract extending from the cul-de-sac bulb to the north property line. The tract shall be owned and maintained by the homeowners’ association. As an alternative, the tract may be deeded to the Lake Washington School District, following recording of the subject plat, if the District is willing to accept ownership and maintenance of the tract.

The purpose of the tract (to provide a pedestrian walkway) shall be stated on the final plat and engineering plans. The tract shall be improved with a 5-foot wide paved surface, consistent with the Road Standards. The existing fence at the north property line shall be

modified to allow access to the school site, if permission for such modification is granted by the school district. A public access easement shall be shown on the final plat, granting public pedestrian access to and through the tract.

- g. As required by KCRS 5.03, street trees shall be included in the design of all public road improvements.
 - h. Street illumination shall be provided at intersections with arterials in accordance with KCRS 5.03.
 - i. Road improvements along NE 8th Street and 233rd Avenue NE may require designs for bus zones and turnouts. As specified in KCRS 2.16, the designer shall contact Metro and the local school district to determine specific requirements.
 - j. The grading, alignment and road improvements for NE 10th Place shall be designed to accommodate the future extension of this road to the east of the subject property. The final design for NE 10th place shall be reviewed and approved by the LUSD Engineering Review Section.
 - k. Modifications to the above road conditions may be considered by King County pursuant to the variance procedures in KCRS 1.08.
- 11. The existing 30-foot access/utility easements shown on the preliminary plat shall be vacated at the time of final plat recording.
- 12. Lots within this subdivision are subject to KCC 21A.43 and Ordinance 13338 which imposed impact fees to fund school system improvements needed to served new development. As a condition of final approval, 50% of the impact fees due for the plat shall be assessed and collected immediately prior to recording, using the fee schedules in effect when the plat receives final approval. The balance of the assessed fee shall be allocated evenly to the dwelling units in the plat and shall be collected prior to building permit issuance.
- 13. There shall be no direct vehicular access to or from 233rd Avenue NE or NE 10th Place from those lots which abut these streets, with the exception of Lot 32. The driveway access to Lot 32 shall be placed at the southwest corner of the lot, consistent with the driveway setback requirements of the Road Standards. A note to this effect shall appear on the final plat and engineering plans.
- 14. A planter island, if provided within the 234th Avenue NE turnaround bulb, shall be maintained by the abutting lot owners or the homeowners' association. This shall be stated on the face of the final plat.
- 15. Suitable on-site recreation space shall be provided consistent with the requirements of KCC 21A.14.180 and KCC 21A.14.190 (i.e. sport court[s], children's play equipment, picnic tale[s], benches, etc.).
 - a. An overall conceptual recreation space plan shall be submitted for review and approval by LUSD, with the submittal of the engineering plans. The conceptual recreation plan shall include location, area calculations, dimensions, and general improvements. The approved engineering plans shall be consistent with the conceptual plan.

- b. A detailed recreation space (i.e. landscape specifications, equipment specifications, etc.) consistent with the overall conceptual plan noted in Item “a” above, shall be submitted for review and approval by LUSD and KING County Parks, prior to or concurrently with the submittal of the final plat documents.
 - c. A performance bond for recreation space improvements to assure their installation, and the survival of required plantings for a three year period, shall be posted prior to recording of the plat.
- 16. A homeowners’ association or other workable organization shall be established to the satisfaction of LUSD which provides for the ownership and continued maintenance of the recreation and open space areas.
- 17. Along the frontage of the property and within the site, street trees shall be provided on NE 8th Street, 233rd Avenue NE and 10th Place NE as follows:
 - a. Trees shall be planted at a rate of one tree for every 40 feet of street frontage. Spacing may be modified to accommodate sight distance requirements for driveways and intersections.
 - b. Trees shall be located within the street right-of-way and planted in accordance with Drawing No. 5-009 of the 1993 King County Road Standards, unless King County Department of Transportation (KCDOT) determines that trees should not be located in the street right-of-way.
 - c. If KCDOT determines that the required street trees should not be located within the right-of-way, they shall be located no more than 20 feet from the street right-of-way line.
 - d. The trees shall be owned and maintained by the abutting lot owners or the homeowners’ association or other workable organization, unless the County has adopted a maintenance program. This shall be noted on the face of the final recorded plat.
 - e. The species of trees shall be approved by DDES and KCDOT if located within the right-of-way, and shall not include poplar, cottonwood, soft maples, gum, any fruit-bearing trees, or any other tree or shrub whose roots are likely to obstruct sanitary or storm sewers, or that is not compatible with overhead utility lines.
 - f. The applicant shall submit a street tree plan and bond quantity sheet for review and approval by DDES prior to engineering plan approval. KCDOT shall also review the street tree plan if the street trees will be located within the right-of-way.
 - g. The applicant shall contact Metro Service Planning at 684-1622 to determine if NE 8th Street is on a bus route. If NE 8th Street is a bus route, the street tree plan shall also be reviewed by Metro.
 - h. The street trees must be installed and inspected, or a performance bond posted prior to recording of the plat. If a performance bond is posted, the street trees must be installed and inspected within one year of recording of the plat. At the time of inspection , if the trees are found to be installed per the approved plan, a

maintenance bond must be submitted or the performance bond replaced with a

- i. maintenance bond, and held for one year. After one year, the maintenance bond may be released after DDES has completed a second inspection and determined that the trees have been kept healthy and thriving. A \$538 landscape inspection fee shall also be submitted prior to plat recording. The inspection fee is subject to change based on the current County fees.

The following conditions have been established under SEPA authority as necessary to mitigate the adverse environmental impacts of this development. The applicant shall demonstrate compliance with these items prior to final approval.

18. The Washington State Department of Transportation (WSDOT) has indicated that the subject plat will pose a probable significant adverse environmental impact to the intersection of SR 202/Sahalee Way, and the other intersections along the SR 202 corridor. To mitigate this impact, WSDOT has requested the applicant contribute a mitigation payment in the amount of \$1,378.00 per lot, to help fund the cost of planned improvements to SR 202. This payment shall be paid in full to WSDOT, prior to final plat recording.
19. The developer shall, individually or with others, construct an eastbound left turn lane on NE 8th Street at 233rd Avenue NE. The construction of this turn lane shall be coordinated with the engineering plans for the NE 8th Street improvements associated with Cheswick Lane (Building Permit B97C0208). Channelization and illumination plans shall be approved by King County Traffic Engineering, prior to engineering plan approval for the subject plat.
20. As determined by DDES during final engineering review:
 - a. The location of the intersection for NE 9th Place at 233rd Avenue NE shall be revised to align with the opposite entrance for the Cheswick Lane project; or,
 - b. Alternatively, the NE 9th Place intersection shall be eliminated; the roadway within Vansell shall be designed as a permanent cul-de-sac street; and, the principal entrance to Vansell along 233rd Avenue NE shall be relocated consistent with KCRS intersection spacing standards.

ORDERED this 17th day of June, 1999.

R. S. Titus, Deputy
King County Hearing Examiner

TRANSMITTED this 17th day of June, 1999 to the parties and interested persons shown on the attached list.

NOTICE OF RIGHT TO APPEAL

In order to appeal the decision of the Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$125.00 (check payable to King County Office of Finance) **on or before July 1, 1999**. If a notice of appeal is filed, the original and six (6) copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the King County Council **on or before July 8, 1999**. If the applicant wishes to reinstate its appeal of the first (April 23, 1999) report and decision, it should do so within this same schedule.

Appeal statements may refer only to facts contained in the hearing record; new facts may not be presented on appeal.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 403, King County Courthouse, prior to the close of business (4:30 p.m.) on the date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. The Examiner does not have authority to extend the time period unless the Office of the Clerk is not open on the specified closing date, in which event delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

If a written notice of appeal and filing fee are not filed within fourteen (14) calendar days of the date of this report, or if a written appeal statement and argument are not filed within twenty-one (21) calendar days of the date of this report, the decision of the hearing examiner contained herein shall be the final decision of King County without the need for further action by the Council.

MINUTES OF THE APRIL 8, 1999 PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. L97P0005- VANSSELL:

R. S. Titus was the Hearing Examiner in this matter. Participating in the hearing were Eric Campbell, John McCullough, Jim Olsen, Roger A. Pearce, Steve Thomas, Pete Dye, Lanny Henoch and Aileen McManus.

The following exhibits were offered and entered into the record on April 8, 1999:

- Exhibit No. 1 LUSD File NO. L97P0005
- Exhibit No. 2 LUSD staff report prepared for the April 8, 1999 public hearing
- Exhibit No. 3 SEPA Environmental Checklist, signed by the applicant on February 19, 1997 and annotated by L. Henoch, LUSD, on February 18, 1999
- Exhibit No. 4 SEPA Mitigated Determination of Nonsignificance, issued February 24, 1999
- Exhibit No. 5 Affidavit of Posting indicating a notice was posted on the property on March 5, 1999, giving notice of the April 8, 1999 public hearing
- Exhibit No. 6 Revised preliminary plat drawing, received March 11, 1999
- Exhibit No. 7 Land use map – Kroll Maps 951 E & W, and 955 E& W
- Exhibit No. 8 King County Assessor Map – SW ¼ of 27 – 25 – 6
- Exhibit No. 9 “Traffic Impact Analysis for Vansell Property”, dated February 25, 1997 and prepared by William Popp & Associates
- Exhibit No.10 June 12, 1997 memo from Gary A. Norris, P.E., William Popp & Associates, containing traffic information
- Exhibit No.11 “Alternative Route Access Study” dated February 24, 1998, prepared by Gary Struthers Associates, Inc..
- Exhibit No.12 April 1, 1999 letter from Lori Hoover, King County Parks
- Exhibit No.13 Letter from Thomas McDonald/DDES to Steve Thomas/KTH Architects, dated November 7, 1997
- Exhibit No.14 Letter to the King County Hearing Examiner’s Office from attorney John (Jack) McCullough, dated April 8, 1999, with statutory warranty deeds attached
- Exhibit No.15 Site Distance Map, showing 233rd Ave. NE and NE 8th St, untitled and undated
- Exhibit No.16 Site Distance Map, with handwritten notation, showing 233rd Ave. NE and NE 8th St, faxed to Steve Thomas on December 17, 1998, 12:30 p.m., from Dodds Engineers, Inc.
- Exhibit No.17 Letter to Steve Thomas from Pamela Dhanapal/DDES, dated February 16, 1999
- Exhibit No.18 New Condition #20 of DDES staff report, re: NE 9th and 223rd Ave. NE.
- Exhibit No.19 Revised Preliminary Plat of Vansell property, dated June 26, 1997, and stamped received by DDES on June 30, 1997.

Bob and Jan Ball
Michelle Beame
Eric Campbell
Roger Dorstad
Vali Eberhardt
John J. and Doris Engebretson
Sharon Freechtle
Ian and Linda Gleadle
Tom and Jeanne Harman
Thomas Jackson
Rich and Barbara Jayne
John L. Scott Land Department
James Jordan
Teresa Lemay
Francis J. Lill
Julie Long
Linda Matlock
John McCullough
Eleanor Moon
New Home Trends
Jim Olsen
Roger A. Pearce
Mark Pease
Nancy Raymond
Roxanne Riley
Nancy Ryan
Alfred and Vivian Sauerbrey
Donna and Bill Schiefelbein
Don and Elizabeth Steyer
Steve Thomas
Jim Tompkins
Kevin Vanderzanden
Marian Vansell
Chris and Caroline Young
Greg Borba
Steve Bottheim
Laura Casey
Kim Claussen
Pete Dye
Lanny Henoeh
Aileen McManus
Carol Rogers
Steven C. Townsend